

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ALYCIA M. GUICHARD,

Plaintiff,

v.

PRINCE GEORGE’S COUNTY et al.,

Defendants.

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Civil Action No. RWT 06-1009

MEMORANDUM OPINION

Plaintiff Alycia Guichard has filed this civil rights action in the Circuit Court of Maryland for Prince George’s County against Prince George’s County, K-Mart Corporation, and Officer M.L. Major, a Prince George’s County Sheriff. She alleges that while working off-duty as a security guard at a K-Mart in Hyattsville, Officer Major assaulted her after a dispute about whether, as the store was closing, she could select one last item for purchase. Complaint, Paper No. 2. The action was subsequently removed to this Court by Defendants. Paper No. 1. Prince George’s County now moves to dismiss the action, on two grounds: first, that the Prince George’s County Police Department is not a suable entity; and second, that Prince George’s County cannot be found liable for the actions of Officer Major because he is a Deputy Sheriff and thus a state employee, not an employee of Prince George’s County. The deadline for Ms. Guichard to file an opposition has passed, and no opposition has been filed. Accordingly, the Court now rules, no hearing being necessary. *See* Local Rule 105.6.

Prince George’s County’s first argument makes no sense: Guichard named the correct entity for claims against Prince George’s County police officers—Prince George’s County—in her complaint. *See* Paper No. 2. Prince George’s County has therefore cited a correct but irrelevant

body of law. Mot. at 2–3.

Prince George’s County’s second argument, however, must succeed. With its motion, Prince George’s County has submitted an affidavit from a competent witness that Defendant Major is not and has never been an employee of the Prince George’s County Police Department or, indeed, of the county. Mot. exh. 1 (Aff. of Raymond Gheen). The Court accordingly construes Prince George’s County’s motion to dismiss as a motion for summary judgment. *See* Fed. R. Civ. P. 12(b). It appears that Defendant Major is a Prince George’s County Sheriff, but in Maryland, sheriffs are state employees for whose actions the county does not bear liability. Regardless of his status, there is uncontradicted evidence that Defendant Major is not and never has been an employee of the county, and the county is entitled to summary judgment in its favor.

Accordingly, judgment will be entered in favor of Prince George’s County by separate order.

6/19/06
DATE

/s/

ROGER W. TITUS
UNITED STATES DISTRICT JUDGE